

Child Welfare Policy Manual

7. TITLE IV-B

7.1 TITLE IV-B, Citizenship/Alienage Requirements

1 Q: It is our understanding that qualified aliens, regardless of whether they entered the United States before or after the date of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) August 22, 1996, are eligible for Federal foster care maintenance and adoption assistance payments (including those funded through title IV-B). Is this a correct interpretation?

A: Not entirely. If the child is a qualified alien who is placed with a qualified alien or United States citizen, the date the child entered the United States is irrelevant. However, if the child is a qualified alien who entered the United States on or after August 22, 1996 and is placed with an unqualified alien, the child would be subject to the five-year residency requirement for Federal means-tested public benefits at section 403 (a) of the PRWORA unless the child is in one of the excepted groups identified at section 403 (b) of that Act. As a general matter, we do not expect these situations to arise very often. In the event such situations do arise, State or local funds may be used to support these children.

Source: ACYF-CB-PIQ-99-01 (1/14/99)ACYF-CB-PIQ-99-01 (1/14/99)

Reference: Social Security Act - Title IV-B; Public Law 104-193 (PRWORA)

2 Q: Are States required to verify the citizenship or immigration status of individuals receiving child welfare services funded under title IV-B?

A: States are not required to verify the citizenship or immigration status of individuals receiving child welfare services funded under title IV-B, subparts 1 and 2, because those services do not meet the Federal definition of Federal public benefit (see 63 Fed. Reg. 41657 (August 4, 1998)). Therefore, child welfare services are not subject to the verification requirements at section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

Source: ACYF-CB-PIQ-99-01 (1/14/99)ACYF-CB-PIQ-99-01 (1/14/99)

Reference: Social Security Act -Title IV-B; Title IV of PRWORA; PL 104-193; 63 Fed Reg 41657

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7.2 TITLE IV-B, Confidentiality

1 Q: What are the title IV-B confidentiality requirements?

A: In accordance with 45 CFR 1355.30 (p)(3) records maintained under title IV-B of the Act are subject to the confidentiality provisions in 45 CFR 205.50. Among other things, 45 CFR 205.50 restricts the release or use of information concerning individuals receiving financial assistance under the programs governed by this provision to certain persons or agencies that require the information for specified purposes. The authorized recipients of this information are in turn subject to the same confidentiality standards as the agencies administering those programs.

To the extent that the records of the title IV-B agency contain information regarding child abuse and neglect reports and records, such information is subject to the confidentiality requirements at section 106 of the Child Abuse Prevention and Treatment Act (CAPTA).

Source: ACYF-NCCAN-PIQ-97-03 (9/27/97); ACYF-CB-PIQ-98-01 (6/29/98)ACYF-NCCAN-PIQ-97-03 (9/27/97); ACYF-CB-PIQ-98-01 (6/29/98)

Reference: Social Security Act - section 471 (a)(8); 45 CFR 205.50; 45 CFR 1355.21 (a); Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - sections 106 (b)(2)(A)(v) and (vi)

2 Q: Who can release information? In particular, can parties other than the State title IV-B agency (such as the court) release information?

A: The release of information which was obtained from the child welfare agency by any party (including the court), except in the same circumstances as identified in 45 CFR 205.50(a)(1)(i), would result in State violation of the State Plan requirements for Foster Care and Adoption.

Source: ACYF-CB-PIQ-95-02 (6/7/95)ACYF-CB-PIQ-95-02 (6/7/95)

Reference: Social Security Act - section 471 (a)(8); 45 CFR 205.50

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3 **Q:** Do the title IV-E confidentiality requirements apply to court records of children served by the title IV-B agency?

A: Yes. While the State Plan requirements for Child and Family Services in Section 422 of the Social Security Act do not identify confidentiality restrictions, title IV-B services are subject to the confidentiality regulations identified in 45 CFR 205.50. See 45 CFR 1355.30 (p)(3).

The regulation prohibits redisclosure of information gained from the child welfare agency in 45 CFR 205.50 (a)(2)(ii), except for the purposes identified in 45 CFR 205.50 (a)(1)(i). This prohibition covers any information gained from the child welfare agency. The information to be safeguarded may be either written information or oral testimony. In addition to the types of information listed in 45 CFR 205.50(a)(2)(i), examples of child welfare information to be safeguarded include but are not limited to the following: referrals from other agencies to the child welfare agency, services provided by the child welfare agency to the child or family, referrals by the child welfare agency to other parties requesting services be provided to the child or family.

Source: ACYF-CB-PIQ-95-02 (6/7/95)ACYF-CB-PIQ-95-02 (6/7/95)

Reference: Social Security Act - section 471 (a)(8); 45 CFR 205.50

4 **Q:** Is any information contained in the child welfare record protected from redisclosure by a court in accordance with title IV-B confidentiality requirements?

A: No. The prohibition covers information that is gained from the child welfare agency. The provisions of confidentiality of information cannot be extended to information that the court has gained from sources other than the child welfare agency.

For example, if the police, school officials, or some other party refers a child to the child welfare agency, the child welfare agency must treat information about the referral as confidential. If the child welfare agency informed the court about this referral, court redisclosure of this information would result in a violation of State plan requirements. If the police, the school official, or some other party went to the court directly, then the confidentiality provisions would not apply. If the court became aware of the police, the school, or other party involvement through a source other than the child welfare agency, the confidentiality provisions in 45 CFR 205.50 would not apply.

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Source: ACYF-CB-PIQ-95-02 (6/7/95)ACYF-CB-PIQ-95-02 (6/7/95)

Reference: Social Security Act - section 471 (a)(8); 45 CFR 205.50

5 Q: Will States compromise compliance with title IV-B of the Social Security Act if they comply with the confidentiality requirements in sections 106 (b)(2)(v) and (vi) of CAPTA?

A: Records maintained under title IV-B (which is subject to the Department's confidentiality provisions in 45 CFR 205.50) are to be safeguarded against unauthorized disclosure. The regulation at 45 CFR 205.50 states that the release or use of information concerning individuals applying for or receiving financial assistance is restricted to certain persons or agencies that require it for specified purposes. Such recipients of information are in turn subject to standards of confidentiality comparable to those of the agency administering the financial assistance programs.

There may be instances where CPS information is subject both to disclosure requirements under CAPTA and to the confidentiality requirements under 45 CFR 205.50. To the extent that the CAPTA provisions require disclosure (such as in section 106 (b)(2)(A)(vi), the CAPTA disclosure provision would prevail in the event of a conflict since the CAPTA confidentiality provisions were most recently enacted. Whereas the CAPTA provision is permissive (such as in sections 106 (b)(2)(A)(v)(I)-(VI)), it allows States to disclose such information without violating CAPTA, but it does not make such disclosure permissible in other programs if it is not otherwise allowed under the other program's governing statute or regulations.

Source: ACYF-NCCAN-PIQ-97-03 (9/26/97)ACYF-NCCAN-PIQ-97-03 (9/26/97)

Reference: Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106

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6 Q: Some States have enacted laws that allow open courts for juvenile protection proceedings, including child in need of protection or services hearings, termination of parental rights hearings, long-term foster care hearings and in courts where dependency petitions are heard. Questions have arisen about whether courts that are open to the public and allow a verbal exchange of confidential information meet the confidentiality requirements under title IV-B. Do the confidentiality provisions for title IV-B restrict the information that can be discussed in open court?

A: Yes. The purpose of the confidentiality provision is to protect the privacy rights of individuals receiving services or assistance under this program and to assure that confidential information is not disclosed to unauthorized recipients. Although, under title IV-B, confidential information may be shared with the courts, there is no provision which allows for public disclosure of such information. The confidentiality requirements of title IV-B do not prohibit open courts per se. However, to the extent that the proceedings involve discussion of confidential information concerning a child or family who is receiving the title IV-B child welfare services, the confidentiality requirements apply. Accordingly, such information cannot be discussed in a public forum, including an open court. To the extent that confidential information is relevant to the proceedings, it must be discussed in the court's chambers or some other restricted setting, and the pertinent sections of the transcript must be kept confidential as well.

Violation of the Federal confidentiality provision is a State plan compliance issue under title IV-B.

Source: ACYF-CB-PIQ-98-01 (6/29/98)ACYF-CB-PIQ-98-01 (6/29/98)

Reference: Social Security Act - section 471 (a)(8); Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106; 45 CFR 205.50; 45 CFR 1355.21 (a)

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7.3 TITLE IV-B, Programmatic Requirements

1 Q: For what population of children must the section 422 protections be provided?

A: Section 422 of the Social Security Act requires that all of the protections set forth therein be provided to all children in foster care. "Foster care" is defined at 45 CFR 1355.20 as:

"24 hour substitute care for all children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes but is not limited to foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child-care institutions, and pre-adoptive homes regardless of whether the foster care facility is licensed and whether payments are made by the State or local agency for the care of the child or whether there is Federal matching of any payments that are made."

Situations exist in which a child who, while s/he may have been removed from her/his home and placed in 24 hour substitute care, is not considered to be in "foster care" because of the nature of the facility in which s/he is placed. In accordance with the statute, we have not considered detention facilities, forestry camps, training schools, facilities that are primarily for the detention of children who are adjudicated delinquent, and facilities like medical or psychiatric hospitals as foster care placements. Therefore, children placed in facilities of the type described here are not, by definition, in foster care and the State is not required to provide the protections to them while they are placed in such facilities.

Source: Questions and Answers on the Final Rule (65 FR 4020) (1/25/00) Questions and Answers on the Final Rule (65 FR 4020) (1/25/00)

Reference: Social Security Act - section 471 (22); 45 CFR 1355.20

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2 **Q:** Do the regulations at 45 CFR 205.10 require fair hearings for appeals related to services as well as financial claims?

A: Yes. The regulations at 1355.30 (p)(2) provide that the procedures for hearings found in 45 CFR 205.10 shall apply to all programs funded under titles IV-B and IV-E of the Social Security Act. Fair hearings in relation to services as well as financial claims are therefore covered under this regulation. The Department believes that the close programmatic and fiscal relationship between titles IV-E and IV-B makes a fair hearings requirement appropriate. The process for fair hearings under section 205.10 is essentially the same for services hearings as for financial hearings. However, because the substantive portion of the regulations provides no examples of service issues, the State has the option of modifying the context of the hearing to accommodate services program complaints. The hearing process under either situation requires that recipients be advised of their right to a hearing, that they may be represented by an authorized representative, and that there be a timely notice of the date and place of the hearing.

The following paragraphs, excerpted from the now obsolete section 1392.11, may be used as guidance for the hearings related to services issues. "The State must have a provision for a fair hearing, under which applicants and recipients may appeal denial of or exclusion from a service program, failure to take account of recipient choice of service or a determination that the individuals must participate in the service program. The results of appeals must be formally recorded and all applicants and recipients must be advised of their right to appeal and the procedures for such appeal. There must be a system through which recipients may present grievances about the operation of the service program."

Examples of service issues in title IV-B that might result in a grievance or request for a hearing include: Agency failure to offer or provide appropriate pre-placement preventive services or reunification services; Agency may not have placed child in the most family-like setting in close proximity to his parents; Parents were not informed of their rights to participate in periodic administrative reviews; Agency failed to provide services agreed to in case plan; A request for a specific service is denied or not acted upon; and Agency failure to carry out terms of adoption assistance agreements.

Source: ACYF-CB-PIQ-83-04 (10/26/83)ACYF-CB-PIQ-83-04 (10/26/83)

Reference: 45 CFR 1355.30 (k), 205.10 and 1392.11

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3 **Q:** Will States jeopardize their title IV-B funding if they choose not to apply for the CAPTA Basic State Grant (BSG)?

A: No. A State's IV-B funding will not be affected if it does not apply for a CAPTA BSG. In order to receive CAPTA BSG funds, States must provide an assurance in their CAPTA Plans that the child abuse and neglect projects the State is funding under title IV-B comply with the CAPTA Plan (section 106 (b)(2)(D)). If a State does not apply for the CAPTA BSG, there would not be a CAPTA Plan, nor any such assurance.

Source: ACYF-NCCAN-PIQ-97-01 (3/4/97)ACYF-NCCAN-PIQ-97-01 (3/4/97)

Reference: Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106

4 **Q:** Can you clarify which children must be included in the State's report to ACF on overseas adoption disruptions and dissolutions under section 422(b)(14) of the Social Security Act?

A: The Intercountry Adoption Act (IAA) of 2000, which amends title IV-B at section 422(b)(14), is intended to protect the rights of children and families involved in intercountry adoption and to standardize and regulate the practices of adoption agencies to protect the best interests of children. One of the ways in which the IAA accomplishes this purpose is to require that an adoption agency's current and past placement practices and records be fully disclosed to prospective adoptive parents. The law, therefore, requires both adoption agencies and States to report certain information on unsuccessful overseas adoptions. In particular, section 422(b)(14) of the Act, among other things, requires that States collect and report certain information to ACF on children who enter foster care because the adoption placement disrupted or the adoption dissolved. The State must report the specific agency that handled the adoptive placement, the reasons for the disruption or dissolution, and the plans for the child in its Annual Progress and Services Report.

States must report as a "disruption" a child who came to the United States for the purpose of adoption but entered foster care prior to the finalization of the adoption regardless of the reason for the foster care placement. Such disruptions typically occur after a child enters the United States under the guardianship of the prospective adoptive parents or an adoption agency with an "IR-4 visa" for the purposes of completing the adoption process domestically. States must report such disruptions even if the child's plan is reunification with the prospective adoptive parents and the stay in foster care is brief.

States must report as a "dissolution" a child who was previously adopted from overseas

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(whether the full and final adoption occurred in the foreign country or domestically) but entered foster care as a result of a court terminating the parents' rights or the parents' relinquishing their rights to the child. Since the child's legal relationship with his or her parents may not be severed until some time after the child enters foster care, States must also report to ACF children adopted from overseas who are already in foster care at the time that the adoption is dissolved.

A State need not report a child who enters foster care after a finalized adoption if the parents' legal rights to the child remain intact. In sum, the State need only report those children who enter foster care as defined in 45 CFR 1355.20 as a result of a disruption or dissolution.

Source: 06/09/0406/09/04

Reference: Social Security Act - Section 422(b)(14); Intercountry Adoption Act of 2000 (Public Law 106-279) - Section 205; 45 CFR 1355.20.

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7.4 TITLE IV-B, Use of Funds

1 Q: May States use title IV-B funds to pay for adoptive parents to attend adoption conferences?

A: States may utilize title IV-B funds for the purposes of paying for the costs of adoptive parents' attendance at conferences which have training components or which include discussions of significant issues covering adoption and the needs of children. Title IV-B includes in the definition of child welfare service those services which are directed toward placing children in suitable adoptive homes where restoration to the biological family is not possible or appropriate.

Costs for adoptive parents to attend such conferences under title IV-B would be reimbursable at the 75% matching rate (section 423 (a)).

The placement of children in adoptive homes when they cannot return to their biological family is an essential child welfare service. Today's emphasis on placing children with special needs in adoption poses many problems and needs for adoptive parents. By attending and participating in conferences which have training components related to adoption and discussions of adoption issues, adoptive parents may better learn how to deal with special problems and enhance their parenting skills by sharing experiences with others in similar circumstances. Active participation of adoptive parents in such conferences may result in improved adoption planning and policy development through their advisory relationships with public agencies, and thereby assist in extending and strengthening adoption services to children and adoptive parents.

Source: ACYF-CB-PA-82-03 (10/14/82)ACYF-CB-PA-82-03 (10/14/82)

Reference: Social Security Act - sections 423 (a), 425 (a)(1)(E)

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2 **Q:** Is foster parent insurance allowable as an administrative cost under title IV-B?

A: This cost may be claimed under title IV-B, but is included in the limitation on maintenance expenditures described in section 423 (c)(1) of the Act because "liability insurance" is not considered to be a service and is primarily related to foster care maintenance. However, States may select Insurance protection for foster parents as an activity to be funded under the Social Services Block Grant (amended title XX). The State chooses the title of the Social Security Act under which it will claim Federal financial participation (FFP) in the costs of insurance.

Some States include payment for insurance coverage in the monthly foster care payment to foster parents; others provide the protection through a group insurance policy or through the State's self-insuring procedures. Using self-insurance, the State may be able to provide broad coverage at low cost.

Source: ACYF-CB-PIQ-82-04 (1/29/82)ACYF-CB-PIQ-82-04 (1/29/82)

Reference: Social Security Act - sections 423 (a) and (c), 475 (4)

3 **Q:** There appears to be no agreement between insurers on the meaning of "liability insurance". Is the interpretation to include coverage of damages to the home or property of the foster parents as well as coverage for harm done by the child to another party, or accidental harm done by the foster parents to the child?

A: The terminology may be misleading, because foster parents are interested in more than "liability insurance". The correct interpretation includes coverage of damages to the home or property of the foster parents, as well as liability for harm done by the child to another party. In addition, protection against suit for possible malpractice or situations such as alienation of affection are often realistic concerns of persons who care for the children of others.

Several States have responded to these concerns by providing coverage for foster parents under a "pooled" liability program which provides in effect a self-insurance for departments of State government. Other States have legislated or otherwise defined foster parents as employees or as persons acting on behalf of the State, thus providing protection to those persons for claims made against them as agents of the State. Some States have purchased insurance coverage for foster parents, although the policies available often do not cover all of

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the risks incurred.

Source: ACYF-CB-PIQ-82-04 (1/29/82)ACYF-CB-PIQ-82-04 (1/29/82)

Reference: Social Security Act - section 423 (a)

4 Q: Are educational costs for foster children eligible for reimbursement under title IV-B?

A: Educational costs for foster children are not ordinarily considered social services and, therefore, are not eligible for reimbursement under title IV-B.

Source: ACYF-CB-PIQ-82-01 (1/19/82)ACYF-CB-PIQ-82-01 (1/19/82)

Reference: Social Security Act - section 425

5 Q: Are medical expenses an allowable cost under title IV-B?

A: No. The definition of the term "child welfare services" in section 425 (a)(1) of the Act does not include the provision of medical or health care, including prescription drugs, as one of the purposes for which expenditures may be reimbursed with title IV-B funds.

Source: ACYF-CB-PIQ-84-01 (2/10/84)ACYF-CB-PIQ-84-01 (2/10/84)

Reference: Social Security Act - section 425 (a)(1)